

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4501 Ocean Drive

Tuesday, October 13, 2009

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clotey, Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, and Human Resource/Risk Manager Kathy O'Brien.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Reverend George Hunsaker

Mayor Minnet consolidated similar items such as New Business items 16d, 16f and 16g and New Business items 16h, 16i, 16j and 16k which dealt with referendum issues. There were no objections.

Vice Mayor McIntee wanted to add free parking for the Halloween Event from 5:00 p.m. to 11:00 p.m. Mayor Minnet added the item as Consent item 12f.

Commissioner Dodd requested that the Environmental Sustainability Committee be placed back on the agenda as a future agenda item for November 24, 2009. There were no other changes, additions or deletions to the agenda.

4. PRESENTATIONS

a. Presentation by Cry of the Water - Establishment of a Marine Park (Commissioner Silverstone)

Commissioner Silverstone compared the Marine Park in Key West to an aquarium. He explained that the idea was to create a Marine Park as part of the beaches.

Stephanie Clark explained that the Key West Marine Park was a public underwater coral reef park that was created with hard and soft corals, sponges and sea grasses that enhanced protection for the ecosystem and would be valuable to the Artificial Reef

for Lauderdale-By-The-Sea. She explained that it had compatible use for boaters, swimmers and beach visitors.

Commissioner Silverstone, Commissioner Clotley and Commissioner Dodd agreed a Marine Park was good idea.

Commissioner Dodd made a motion to move forward as quickly as possible to create a Marine Park off the Beaches of Lauderdale-By-The-Sea. Commissioner Clotley seconded the motion.

Vice Mayor McIntee asked who would be against it. Ms. Clark believed possibly boaters and fishermen. Vice Mayor McIntee asked whether fishing from the beach would be a problem. Dan Clark did not see a problem with fishing from the beach.

Mayor Minnet was concerned with cost. Ms. Clark said the \$40,000 could come from grants and in-kind matches. She added that an ordinance would have to be created to identify the swim area and a boat exclusion zone. Ms. Clark added that it was a stewardship program with community involvement and funded by NOAA. Mayor Minnet believed it was a wonderful opportunity for the community to come together.

Commissioner Silverstone stated there was a current ordinance on the books that disallowed spear fishing.

Commissioner Dodd withdrew his motion to allow Commissioner Silverstone to make his motion.

Commissioner Silverstone made a motion to support the endeavor and initiate the grant application. Commissioner Clotley withdrew her motion to allow Commissioner Dodd to second the motion. Commissioner Dodd seconded the motion.

Commissioner Dodd offered an amendment to the motion to initiate an Ordinance as soon as possible and to notify appropriate departments to make them aware of the area designated as a fish haven/Marine Park. Commissioner Silverstone asked whether it would be acceptable to go from the shore to the end of the pier, the south side of the pier, and down to Palm Avenue. Manager Colon asked to include the assistance of Mark Furth. Marc Furth accepted. The Commission agreed to the amendments. The motion carried 5-0.

b. Presentation by the Green Hopper (Commissioner Clotley)

Commissioner Clotley heard about the service in Wilton Manors.

Mr. Alan Carter, Angelo Bartolome, Peter George.

Mr. Bartolome gave an overview of the Green Hopper. He stated that a place to charge the electric vehicles (about 4) would be needed along with a safe place to keep the vehicles.

Mr. George said that as the driver of the Green Hopper, he found the service to be rewarding as it provided a great deal to the community to help them get around and prevented drinking and driving.

Mayor Minnet thanked everyone for their support of the idea.

Commissioner Clotey made a motion to pursue discussion in regards to having the service within the Town. Commissioner Dodd seconded the motion. The motion carried 5-0.

5. PUBLIC COMMENTS

John Thompson spoke on the height limitation.

Cristi Furth questioned whether there was concern with the Sunshine law when the Commission discussed the height limit as there was pending litigation.

Vito Chiarello did not like personal attacks. He believed in freedom of speech.

Dennis Ritchie wanted to know if certification was required for boat training.

Jerry Sehl had a website where people could fill out public and/or private polls. He added that the service was not a blog.

Patrick Potts was concerned with fishing on the beach.

Linda Ritchie requested people become members of the Property Owners Association.

Spiro Marchelos thought the Marine Park was a good idea but the Town should concentrate on downtown first.

Sal Coniglio was upset that a meeting was held on a Jewish Holiday.

Louis Marchelos stated that a member of the dais threatened to sue at the previous meeting.

Daniel Harlert believed the people developed a loss of confidence.

Frank Herrmann believed the agendas were packed with items that had been commented on many times before.

Chris Vincent believed that there should be common ground and understanding of the grey areas.

Rosalie Malkoon said the Town Manager's job description did not include obtaining a police report.

Bob Fleishman did not believe Vice Mayor McIntee had the right to enter a crime scene.

Michael Millstone, security guard at the Hampton Beach Club confirmed that at 10:20 p.m. the fire alarm went off and explained the procedure that followed and stated that VFD showed up to silence the alarm at about 10:40 p.m. Vice Mayor McIntee pointed out that the VFD responded when they received the call.

Beverly Kennedy believed the issue of bicycle riders needed to be addressed.

John Oughton announced his intention to run for Commissioner.

Ben Freeney offered his thoughts on a manager review process.

Ken Brenner proposed a mixed use classification for garbage pick up.

Ron Piersante believed that leaving the bags on the parking meters cost the Town approximately \$90,000 in lost revenue.

Lawrence Wick believed it was time to get on with Town business.

Yann Brandt stated that the Town Manager could only manage what the Commission decided to put into the budget.

There were no more comments.

Mayor Minnet recessed the meeting at 9:11 p.m. and reconvened at 9:29 p.m.

6. REPORTS

a. Finance and Budget Monthly Report - August 2009 (Manager Colon)

Commissioner Silverstone made a motion to approve the report. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

b. VFD Fire Monthly Report - August 2009 (Chief Perkins)

Mayor Minnet inquired of the number of hours for driver training. Chief Perkins said it would be on the next monthly report. Mayor Minnet asked whether the roster was updated. He said it bounced as people took leave. Manager Colon asked that he would note anyone on administrative leave. Chief Perkins agreed.

Commissioner Dodd questioned the requirements to remain on the roster. Chief Perkins stated that in town memberships required they do at least 20% of the calls and out of town memberships had to do one 24 hour period per month.

Commissioner Silverstone questioned the response to a call. Chief Perkins stated that the VFD responded within 3 minutes. He added that the alarm was monitored and if it did not get called out at the monitoring station, dispatch would not get called out.

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

c. AMR EMS Monthly Report - August 2009 (Operations Manager Liddle)

Commissioner Clotley asked whether it was time to appoint a representative to meet with the Commission. Operations Manager Liddle said he would verify the status.

Commissioner Dodd congratulated Operations Manager Liddle for his response times. Commissioner Clotley thanked AMR for taking care of her friend.

Commissioner Silverstone made a motion to accept the report. Commissioner Clotley seconded the motion. The motion carried 5 - 0.

7. PUBLIC SAFETY DISCUSSION

a. Report on Suicide in Bell-Air

Vice Mayor McIntee said he was asked by the deceased's wife to explain the incident as what was stated in the newspaper was untrue. Vice Mayor McIntee said that when he arrived at the scene he heard the screams from a woman and a child. He ran to the back of the house where the screams came from and immediately escorted them from the room and out to the couch where he tried to console them.

Mark Brown stood 100% behind his story. He said there were 6 different reports on the incident. Mr. Brown believed there should be an investigation by the State of Florida.

Chief Llerena stated that this investigation was never a homicide investigation as there were no indications or allegations that a crime had been committed and no sworn statements were taken.

Commissioner Silverstone thought a full investigation was a great idea. He asked whether an ambulance could be called off. Operations Manager Brooke Liddle stated that a rescue could not be called off once AMR was dispatched. He added that only BSO could do that.

Commissioner Dodd asked whether it was correct AMR could not enter the premises without permission from BSO for safety reasons. Operations Manager Liddle stated that was correct. Commissioner Dodd was concerned with where the procedures were in the VFD procedures. He asked what the procedures were regarding entry when gun shots were heard. Chief Perkins said the procedures were the same as AMR. He added that an internal investigation proved the entry was justified in this particular incident as a judgment call was made.

Mayor Minnet stated that the report indicated that Vice Mayor McIntee entered the room and the woman and child followed him. Vice Mayor McIntee said that was not the way it happened. Mayor Minnet believed there should be another investigation.

Commissioner Silverstone stated that if someone was drowning he would jump in.

Commissioner Clotey thought this was an unfortunate thing to put the resident through. She asked why a report was filed on July 28, 2009 when it occurred on May 4, 2009. Chief Llerena said on this type of investigation it was routine to take a few months to complete.

Commissioner Dodd indicated that a public statement would have avoided the current discussion. Vice Mayor McIntee stated that suicides were private and personal event and was not beneficial to the public.

Commissioner Silverstone thanked Vice Mayor McIntee for what he did.

Mayor Minnet requested that the Choice item, New Business item 16n be considered prior to the Town Manger Report. There were no objections.

New Business Item 16n was taken out of order for discussion.

16n. Discussion and/or action regarding garbage:

1. Trash contract related issues (Commissioner Dodd)

Commissioner Dodd praised the staff of Choice for doing a great job. He asked if Choice would have a problem with making changes to the contract. Mr. Mancini said it would depend on what the additional changes were. Commissioner Dodd asked whether there was discussion regarding reduction in charges should smaller totes be needed or consideration towards the absence of condominium owners. Mr. Mancini said there were provisions in place where they did not have to use bins; they could use 1 yard dumpsters. Mr. Mancini said he would sit with the Town Manager and look into the possibility of changing some of the schedules should the Commission so desire. Commissioner Dodd agreed.

Mr. Ferguson stated that Choice had always worked with the Town. Commissioner Dodd requested Manager Colon look into the complaints and come back with a recommendation to change the Ordinance to suspend the rate on multifamily units.

Manager Colon pointed out that some of the condominiums were non-conforming and had to follow the variance process. She said prior to the RFP all the recommendations were done as requested by the Commission. Manager Colon also pointed out that the Code stated that payment was required for 3 containers, if required, whether they were used or not. She added that the discontinuance of service was made by the Commission and if the Commission changed it, it could result in code issues.

Commissioner Dodd made a motion to direct the Town Attorney to change Section 10-32 to offer the ability to temporarily suspend service with a 30 day notice providing that the suspension was for more than 90 days.

Mayor Minnet wanted to make sure the Commission was addressing mixed use properties. Mr. Mancini said Choice responded to Broward County Records as to how to code them. Mr. Brenner said he was 1 person that only used 1 can. Mr. Mancini stated that Mr. Brenner was provided only 2 carts and he was charged a commercial rate because he occupied both the residential area and the commercial area downstairs. Mr. Brenner explained he wanted to have recycling and bulk pickup no matter what rate he was charged. Mayor Minnet believed Mr. Brenner's situation was unique and hoped a section could be created to address it.

Vice Mayor McIntee asked whether Commissioner Dodd was asked for a change in the contract. Attorney Grant Smith advised his client that once they sign a contract they should not go back and re-negotiate. He added that they bid under a certain set of circumstances. Attorney Smith said once the amendment to the Ordinance was determined they could better decide whether it would impact the current contract.

Mayor Minnet believed that staff should sit down with the owners of Choice to come to a conclusion. The Commission and staff agreed.

Manager Colon reminded Commissioner Dodd that he had another item regarding the discontinuance of service. She said she had forwarded that document to the Town Attorney. Manager Colon said the first step was to look at what changes would be needed in the Town Code prior to sitting down with Choice, as code dictated what Choice had to do. Manager Colon said she needed to have a draft code with the changes the Commission wanted in order to know exactly what she is to negotiate with Choice. Commissioner Dodd said the draft code was to offer a multiplex the ability to suspend service equal to single family residents and a mixed rate under Section 333 of the Code.

Mayor Minnet moved the Consent Agenda out of order for consideration at this time. She stated that the item added earlier in the evening was 12f - parking to be free during the Halloween event.

12. CONSENT AGENDA

Commissioner Silverstone made a motion to accept 12a, 12b, 12c, 12d, and 12f on consent. Commissioner Clotley seconded the motion. The motion carried 5 - 0.

- a. Commission approval of the agreement between LBTS and the Supervisor of Elections for the hiring of poll workers as their employees for the March 10, 2009 Municipal Election (Clerk White)
- b. Commission approval of Special Event permit application for "Public Menorah Lighting 2009" by Chabad Lauderdale By-The-Sea, Sunday December 13, 2009, 6:30 PM till 9:30 PM, refunding the application fee (Assistant Town Manager Olinzock)
- c. Commission approval of Special Event permit application for Marie White's 5th Annual "Santa Is Coming to Town", Saturday, December 12, 2009, 11:00 AM till 3:00 PM, refunding the application fee (Assistant Town Manager Olinzock)
- d. Commission approval of the issuance of three (3) parking permits to Global Coral Reef Reliance for use at Parking Meters on Datura Avenue, Monday Thru Friday, 7:00 AM till 6:00 PM, October 27, 2009 thru January 31, 2010, during construction of the Artificial Reef Project (Assistant Town Manager Olinzock)
- e. Commission approval of the use of Jarvis Hall by the property owners association of LBTS, Inc. for Oktoberfest 2009, Saturday, October 17, 2009, 6:00 PM till 10:00 PM, allowing serving/selling of alcoholic beverages (Assistant Town Manager Olinzock)

This item was pulled from the Consent Agenda for discussion.

Vice Mayor McIntee noted that everything in the corner would be moved by Don Prince so there would be no concern while decorating for Halloween.

Vice Mayor McIntee made a motion to approve. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- f. Commission approval to allow free parking for the Halloween Event from 5:00 p.m. to 11:00 p.m. (Vice Mayor McIntee)

8. TOWN MANAGER REPORT

Manager Colon advised there would be a presentation by Ron Greenstien, Director of the Resource Recovery Board on the next agenda regarding changes to the Interlocal Agreement and the Memorandum of Understanding. She added that samples would be

provided to the Commission prior to the presentation.

Manager Colon referred to a memorandum regarding the time line to follow for the proposed referendums for the March 9, 2010 Municipal Election. She stated that the referendum items were date sensitive as workshops would need to be scheduled.

9. APPROVAL OF MINUTES

Manager Colon stated that the Commissioner Comments on July 29, 2009 made by Vice Mayor McIntee were re-written to make them clearer. Other concerns for the remaining minutes that were previously submitted by the Mayor were validated as correct and stood as written.

Commissioner Clotey made a motion to approve the minutes of July 29, 2009 and September 9, 2009 as stated. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- a. July 29, 2009 continued from July 28, 2009 Regular Meeting Minutes
- b. September 9, 2009 Regular Meeting Minutes
- c. September 10, 2009 continued from September 9, 2009 Regular Meeting Minutes

Commissioner Clotey made a motion to approve the minutes of September 10, 2009. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- d. September 10, 2009 Commission Conference Minutes
- e. September 14, 2009 Special Public Hearing Minutes

Commissioner Silverstone made a motion to approve the minutes of September 10, 2009 and September 14, 2009. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

Staff to clarify Vice Mayor McIntee comments that he stated "decrease" and not "increase" in his public comments for July 29, 2009 and note the file.

10. ORDINANCES - PUBLIC COMMENTS

1. Ordinances 1st Reading

- a. Ordinance 2009-28: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA AMENDING CHAPTER 20, ARTICLE IV, ENTITLED "UTILITIES", REPEALING SECTIONS 20-40 AND 20-44 AND SECTIONS 20-50 THROUGH 20-65 THEREOF PROVIDING FOR THE LEVY, COLLECTION AND ENFORCEMENT OF THE TOWNS STORMWATER MANAGEMENT UTILITY

FEES; PROVIDING FOR CODIFICATION OF THE REPEAL IN ARTICLE IV,
CHAPTER 20 OF THE CODE OF ORDINANCES, SEVERABILITY, AND AN
EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-28 by title.

Attorney Trevarthen explained there was an Ordinance on the books that stated there was a stormwater fee and this Ordinance repealed that section of the code.

Commissioner Dodd asked whether this was the first step to bring back the stormwater fee. Attorney Trevarthen explained that should the Commission decide to do that, a study would have to take place and it would be done in a legal manner.

Commissioner Silverstone made a motion to adopt Ordinance 2009-28 on first reading. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

2. Ordinances 2nd Reading

- a. Ordinance 2009-27: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE SEA AMENDING CHAPTER 5, BEACHES AND WATERWAYS, TO ALLOW
AND REGULATE FISHING AND SURF CASTING ON THE PUBLIC BEACH;
PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-27 by title.

Commissioner Silverstone made a motion to continue the meeting past 11:00 p.m. Commissioner Dodd seconded the motion. He wanted clarification that the meeting was to continue only until they finished the Ordinance. The Commission agreed. The motion carried 5-0.

Mayor Minnet opened the public comment portion of the meeting.

Frank Herrmann was against the Ordinance.

Chad Purcell stated that throughout Florida people fished from the beach. He added that it cost \$25.50 to fish off the pier for a couple of hours.

Ken Cougler was against surf fishing.

Charles Leachman support surf fishing with proper instruction.

Bob Fleishman believed surf fishing would create problems.

Diana Cougler was against the Ordinance.

Paul Novak believed Lauderdale-By-the-Sea was a tourist town not a fishing town.

Rick Imboden suggested a permit be issued with rules attached.

Louis and Spiro Marchelos were both against fishing from the beach.

Jerome McIntee stated that people fish early in the morning and not at peak hours.

Maureen McIntee favored fishing off the beach.

Bill Hart thought fishing off the pier was dangerous.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Silverstone stated that should beach fishing not work, the Ordinance could always be changed.

Vice Mayor McIntee has seen people fishing and did not believe there would be a massive fishing expedition once the ordinance was passed.

Commissioner Clotey asked whether it was legal to allow residents only to fish off the beach. Attorney Trevarthen said that would be illegal. Commissioner Clotey was in favor of a controlled area but was against fishing in a tourist area; she believed it was a safety issue.

Commissioner Dodd asked how many tickets were issued last year for fishing on the beach. Assistant Town Manager Olinzock said he would have to look into it. Commissioner Dodd stated that no fishing lines or hooks were found during the beach cleanup. He added that the Commission would monitor the beaches and if they found there were problems, the Commission would address the issue immediately and reconsider the Ordinance.

Mayor Minnet believed more consideration should have been given to condominium owners who were currently out of town. She pointed out that out of 15 people, 10 were against the Ordinance and 5 were in favor.

Vice Mayor McIntee made a motion to adopt Ordinance 2009-27. Commissioner Silverstone seconded the motion. The motion carried 3 - 2. Mayor Minnet and Commissioner Clotey voted no.

Commissioner Silverstone made a motion to continue the meeting to Tuesday October 20, 2009 at 6:00 p.m. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

Vice Mayor McIntee made a motion to recess. Mayor Minnet recessed the meeting at 11:54 p.m. to October 20, 2009 at 6:00 p.m.

11. COMMISSIONER COMMENTS

12. CONSENT AGENDA

The consent agenda was moved out of order and considered earlier in the evening.

- a. Commission approval of the agreement between LBTS and the Supervisor of Elections for the hiring of poll workers as their employees for the March 10, 2009 Municipal Election (Clerk White)
- b. Commission approval of Special Event permit application for "Public Menorah Lighting 2009" by Chabad Lauderdale By-The-Sea, Sunday December 13, 2009, 6:30 PM till 9:30 PM, refunding the application fee (Assistant Town Manager Olinzock)
- c. Commission approval of Special Event permit application for Marie White's 5th Annual "Santa Is Coming to Town", Saturday, December 12, 2009, 11:00 AM till 3:00 PM, refunding the application fee (Assistant Town Manager Olinzock)
- d. Commission approval of the issuance of three (3) parking permits to Global Coral Reef Reliance for use at Parking Meters on Datura Avenue, Monday Thru Friday, 7:00 AM till 6:00 PM, October 27, 2009 thru January 31, 2010, during construction of the Artificial Reef Project (Assistant Town Manager Olinzock)
- e. Commission approval of the use of Jarvis Hall by the property owners association of LBTS, Inc. for Oktoberfest 2009, Saturday, October 17, 2009, 6:00 PM till 10:00 PM, allowing serving/selling of alcoholic beverages (Assistant Town Manager Olinzock)

13. RESOLUTION - "Public Comments"

- a. Resolution 2009-26: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA RECOGNIZING CITY GOVERNMENT WEEK, OCTOBER 18-24, 2009 AND ENCOURAGING ALL CITIZENS TO SUPPORT THE CELEBRATION AND CORRESPONDING ACTIVITIES

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

- a. Commission selection of contractor and award of RFP 09-07-01 - Commercial Blvd Drainage Improvements (Assistant Town Manager) This item was deferred at the September 10, 2009 Commission Meeting by Vice Mayor McIntee.
- b. Discussion and/or action regarding Citizen Contact Forms for drainage project

(Assistant Town Manager Olinzock) This item was deferred at the September 10, 2009 Commission Meeting by Vice Mayor McIntee.

- c. Discussion and/or action regarding the clarification of the ordinance pertaining to the storage of boats, boat trailers, boat enclosures and boat covers in the Town (Mayor Minnet) this item was deferred at the September 10, 2009 Commission Meeting by Vice Mayor McIntee.
- d. Discussion and/or action: Faced with record numbers of foreclosures, some Florida communities are using more innovative ways of maintaining foreclosed properties than fines and liens. Some communities in Florida have programs where the municipality takes over the maintenance of a deteriorating property and adds these expenses to the tax bills of these respective properties. This way the Town will get reimbursed for its services and neighbors do not have to deal with deteriorating properties and overgrown lawns, green swimming pools, etc (Commissioner Clottey) This item was deferred at the September 10, 2009 Commission Meeting by Commissioner Clottey
- e. Discussion and/or action regarding Request for Bid (Invitation to Bid) Vice Mayor McIntee

16. NEW BUSINESS

- a. Commission approval of the selection of Christmas banners - \$4,952.50 (Assistant Town Manager Olinzock)
- b. Discussion and/or action by Town Commission to provide resolution to approve encroachment existing on public property: (Assistant Town Manager Olinzock)
 - 1. 16 Commercial Blvd
- c. Commission approval of four (4) Hardship Permit Applications: (Clerk White)
 - 1. Ocean Time LLC
 - 2. Ocean Treasure LLC
 - 3. Driftwood Beach Club
 - 4. Ocean Treasure
- d. Discussion and/or action to discuss the Town's Master Plan (Mayor Minnet)
- e. Discussion and/or action to allow Theaters, Performing Arts Theaters, Cultural Arts Theaters, etc on Commercial Blvd (Mayor Minnet)

Town Commission Regular Meeting Minutes
October 13, 2009

- f.** Discussion and/or action regarding Beautification Projects (Commissioner Silverstone)
 - 1. El Mar (Oriana)
 - 2. FDOT - A1A - Pine to Terra Mar
 - 3. LBTS - Pine Avenue from A1A to El Mar
 - 4. LBTS - El Mar - Commercial to Pine
- g.** Discussion and/or action to schedule a workshop for future Capital Improvement Project: (Commissioner Silverstone)
 - 1. General Obligation Bond
- h.** Discussion and/or action on a "two hats" referendum item (Commissioner Dodd)
- i.** Discussion and/or action regarding the height limit:
 - 1. Implementation of referendum to clarify 33 foot height limit Town (Vice Mayor McIntee)
 - 2. "Should the 15 story height limit be restored in the North end of Town" (Commissioner Dodd)
 - 3. Should the Town change the zoning to allow the 44 foot height limit that was passed at three previous referenda for development within the boundaries of the Old Marina Overlay, Beach Overlay and Hospitality Districts? The setbacks, green space and density to be calculated from the 1973 original charter provisions and not the more recent overlay districts parameters (Commissioner Dodd)
- j.** Discussion and/or action concerning a referendum question for lifeguards (Commissioner Dodd)
- k.** Discussion and/ or action referendum items for the March 2010 ballot (Mayor Minnet)
- l.** Discussion and/or reference police call (Vice Mayor McIntee)
- m.** Discussion and/or action regarding escalating Town action to recover Town Cul de Sac (Garden Court) (Vice Mayor McIntee)
- n.** Discussion and/or action regarding garbage:
 - 1. Trash contract related issues (Commissioner Dodd)

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

continued from October 13, 2009

MINUTES

Jarvis Hall

4501 Ocean Drive

Tuesday, October 20, 2009

6:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 6:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Clottey were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, Town Clerk June White, and Deputy Clerk Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. COMMISSIONER COMMENTS

Commissioner Clottey apologized on her own behalf for having a meeting on Yom Kipper. Commissioner Clottey spoke with Oliver Parker regarding Oriana and she was told there were no restraints and no time limit on the money and the money could be used anywhere on El Mar Drive including the pathway along the beach. She requested that either the Town Manager or Town Attorney look into it. She was glad the money was approved for the Marine Park as she believed it would be good for the Town. Commissioner Clottey believed the Green Hopper would be good for the Town also. She appreciated the presentation from Mr. Simmons regarding the Town Manager's review. Commissioner Clottey talked about referendums on the ballot; one that would make the VFD the fire provider for the Town and not be removed without a referendum vote and the other whether someone on the Dias should be a member or an officer of a vendor. She believed VFD was a vendor. Commissioner Clottey said that if the Commission put it on the ballot it would be the same as saying the Commission supported it. She believed the people should get the signatures and place it on the ballot.

Commissioner Silverstone wanted to do something to recognize previous Vice Mayor John Yanni for his 12 years of service. He stated that he will put it on the agenda for an upcoming meeting for a group of volunteers to clean & polish the Pelican Monument which was something John Yanni was proud to accomplish. Commissioner Silverstone thanked Mrs. Ritchie for putting together the POA meeting. Commissioner Silverstone remembered flooding on the street by the fishing pier where people would come and surf. He liked Ms. Mohler's idea that suggested an engineer come up with a fair payment schedule for the businesses of the Town to pay for drainage in and around that

area. Commissioner Silverstone agreed that the Parking fees for hardship had been raised by more than half and will suggest lowering it when the item comes up. Commissioner Silverstone addressed the oversight regarding Yom Kippur. He added that by the time it was noticed it was too late to change it. Commissioner Silverstone agreed that people should only speak on agenda items. Commissioner Silverstone pointed out that in a public entity there were no grey areas; private businesses had guidelines and were allowed to have grey areas. He added that a public entity had no guidelines; they had to follow the law or they would break the law. Commissioner Silverstone stated that the end of year numbers will be available when completed. He advised that anytime people had questions to please call him or the Town to get their answers rather than come to the podium and wait for their answers. He thanked Mr. Wick for the Christmas-By-The-Sea event and advised Mr. Brown the Supervisor of Elections had certified that the taxes were lowered in Lauderdale-By-The-Sea. Commissioner Silverstone said the Youth League Basketball was starting up again and signups were Saturday November 7, 2009 and also there will be Karate classes for children between the ages of 6 through 12.

Commissioner Dodd commented on the rolls of the Commission. He said he had to place items on the agenda that needed representation and was tired of being accused of attacking when he asked for information. He believed he was being attacked as the Vice Mayor had placed a second request for his emails. Vice Mayor McIntee made a point of order and stated that he did not. Attorney Trevarthen stated she did not receive another request. Commissioner Dodd apologized and stated he had printed 1875 emails.

Vice Mayor McIntee talked about the height in Old Town and New Town. He proposed a referendum 33 feet in Old Town 44 feet in New Town. Vice Mayor McIntee stated he received another call from the wife of the suicide victim who said that Mark Brown from By-The-Sea-Future came to her home and she told Mr. Brown that Vice Mayor McIntee did not bring the child into the room a second time to view the victim. Vice Mayor McIntee asked for a retraction and Mr. Brown did not retract; instead Mr. Brown printed the lie again. Vice Mayor McIntee said the Town was going in the right direction. Houses were being sold and remodeled because the Town was stable.

Mayor Minnet read an internal memo from the Broward County Sheriff's office whereby they reopened the investigation on the suicide. Mayor Minnet passed out an article regarding "Make a Difference Day" on October 24, 2009 and hoped everyone would try to make a difference. She reminded everyone that Census 2010 was here. Mayor Minnet thanked the Chamber and everyone that participated in the Beach Clean Up that began October 3, 2009. She said there was a presentation at the next meeting regarding single stream recycling. Mayor Minnet thanked the POA for the Octoberfest. She said it was a wonderful evening. Mayor Minnet said she put the boat enclosure issue back on the agenda because the people of Bel Air were asking for clarification. She pointed out that the agenda item stated "clarification" and thanked Mr. Wick for asking. Mayor Minnet was glad the Planning and Zoning Board were in favor of the

theater district as an allowable use. She explained that the Flag was at half mast because it was National Firefighters Week.

4. RESOLUTION - "Public Comments"

- a. Resolution 2009-26: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA RECOGNIZING CITY GOVERNMENT WEEK, OCTOBER 18-24, 2009 AND ENCOURAGING ALL CITIZENS TO SUPPORT THE CELEBRATION AND CORRESPONDING ACTIVITIES**

Attorney Trevarthen read resolution 2009-26 by title.

Mayor Minnet opened the meeting to public comment. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Clotey made a motion to adopt Resolution 2009-26. Commission Dodd seconded the motion.

Commissioner Silverstone thought it was a great idea for promoting citizen involvement. The motion carried 5-0.

5. QUASI JUDICIAL PUBLIC HEARINGS

6. OLD BUSINESS

- a. Commission selection of contractor and award of RFP 09-07-01 - Commercial Blvd Drainage Improvements (Assistant Town Manager) This item was deferred at the September 10, 2009 Commission Meeting by Vice Mayor McIntee.**

Vice Mayor McIntee believed that a board or a group of people were to be set up to highlight the worst areas in town in order to do those first. Mayor Minnet believed an Engineer was needed to do a Town wide study.

Vice Mayor McIntee made a motion to direct the Town Manager to implement the \$98,000 Town wide Stormwater Plan by Chen and Associates and do the most serious ones first. Manager Colon stated that the Town Engineer submitted the quote at \$98,000 to do a Master Stormwater Plan Town wide study. Commissioner Silverstone seconded the motion for discussion. Commissioner Dodd believed the Commission already agreed to go with the study and not do piece meal repairs. Commissioner Silverstone agreed that was the direction the Commission had taken. Commissioner Silverstone seconded the motion. The motion carried 5-0.

- b. Discussion and/or action regarding Citizen Contact Forms for drainage project (Assistant Town Manager Olinzock) This item was deferred at the September 10, 2009 Commission Meeting by Vice Mayor McIntee.**

This item was considered with Old Business item 6a and approved.

- c. Discussion and/or action regarding the clarification of the ordinance pertaining to the storage of boats, boat trailers, boat enclosures and boat covers in the Town (Mayor Minnet) this item was deferred at the September 10, 2009 Commission Meeting by Vice Mayor McIntee.

Mayor Minnet said that she put this on the agenda although Vice Mayor McIntee had deferred it previously. She said she wanted clarification.

Mar Jo Lexa said she initiated a petition to grandfather boats on trailers and an ordinance was drawn to grandfather individuals who lived in Bel Air prior to annexation and continuously had a boat on a trailer parked in their driveway with a Florida tag. She added there was a further provision to allow boat trailers in their driveways if a hardship was demonstrated. Ms. Lexa was concerned that the item was back on the agenda due to Town Attorney opinion.

Vice Mayor McIntee believed the only question was regarding the use of tarps vs. boat covers and boat covers were clarified. Commissioner Dodd agreed.

Commissioner Dodd believed there was room for abuse, such as if a trailer did not have a boat on it for a period of time it should not be allowed, but should be allowed if it were to be left in the driveway while the boat was being used.

Commissioner Clotey agreed with Commissioner Dodd and thought the Commission should come back and revisit the boat trailer issue. Vice Mayor McIntee agreed.

There was no further discussion.

- d. Discussion and/or action: Faced with record numbers of foreclosures, some Florida communities are using more innovative ways of maintaining foreclosed properties than fines and liens. Some communities in Florida have programs where the municipality takes over the maintenance of a deteriorating property and adds these expenses to the tax bills of these respective properties. This way the Town will get reimbursed for its services and neighbors do not have to deal with deteriorating properties and overgrown lawns, green swimming pools, etc (Commissioner Clotey) This item was deferred at the September 10, 2009 Commission Meeting by Commissioner Clotey

Commissioner Clotey said there were many properties that were overgrown and lacking care. She suggested getting someone to take care of the properties and assess it on the tax bill.

Manager Colon said there were liens on properties and there was success in the collection of funds.

Commissioner Clotey withdrew the item.

e. Discussion and/or action regarding Request for Bid (Invitation to Bid) Vice Mayor McIntee

Vice Mayor McIntee believed that the Town could not be selective as to which items go out for RFP such as the Welcome Center for fear of unpopularity. Discussion followed regarding that statement of not going out for bid on the Welcome Center.

Manager Colon said that when she asked whether she should go out for bid on the Chamber as well as the Senior Center the quote was "if the Manager wanted to be extremely unpopular then please go ahead and put the welcome center out for RFP". Manager Colon stated that both the Senior Center and the Welcome Center were contractors. She felt that every Commissioner on the dais should respect the cone of silence and once an RFP was put out, individuals should not be speaking to the potential vendors.

Commissioner Clotley pointed out that the requirement for the Senior Center was at least 65 years old and low income. She asked whether Director Armilio Bien-Aime would look at some of the services that other people wanted and stated that he was supposed to purchase ads for placement in the Town Topics and arrange for trips and parties.

Vice Mayor McIntee said he gave Mr. Bien-Aime his support.

7. NEW BUSINESS

a. Commission approval of the selection of Christmas banners - \$4,952.50 (Assistant Town Manager Olinzock)

Mayor Minnet inquired as to whether the Town currently had Christmas banners. Manager Colon advised that there were Christmas banners for approximately 30% of the poles.

Vice Mayor McIntee made a motion to approve \$4,952.50 to purchase the banners. Commissioner Clotley seconded the motion for discussion. She believed the colors would not be seen and should have a black frame around them to make them noticeable.

Manager Colon said 3 samples were supplied that fell within the price range approved by the Commission. She said she would make the inquiry to see whether the borders could be applied without exceeding the approved amount.

Mayor Minnet was not in favor of the Christmas banners as she believed there were other items the money could be used for.

Commissioner Silverstone thought the banners were too high on the poles. Manager Colon advised that there was a height limit under EOC standards and the banners could not go lower.

Commissioner Clotley believed that green on a blue background was not visible from a distance.

Mayor Minnet asked to see the existing banners. Assistant Town Manager Olinzock stated that the existing banner was 8 feet long and did not adapt to the windstorm brackets. He added that the proposed banners were 5 feet long. Assistant Town Manager Olinzock stated that it took a full week's worth of labor to make the adjustments to hang the 8 foot banners.

Commissioner Silverstone believed they should move forward at minimum cost. He added he preferred group B.

Vice Mayor McIntee asked how many banners the Town had in stock. Assistant Town Manager stated that there were approximately 25 to 28 of the existing banners and they were deteriorating. Vice Mayor McIntee believed the banners should be replaced.

Vice Mayor McIntee made a motion to approve proof B with a black border not to exceed \$4,952.50. Commissioner Clotley seconded the motion. Commissioner Silverstone amended the motion to make "Lauderdale-By-The-Sea" in black instead of white if it did not exceed the cost.

Manager Colon clarified the words "Season's Greetings" would be in white and "Lauderdale-By-The-Sea" would be in black, and there would be a black border. Commissioners Silverstone and Clotley agreed. The motion carried 3-2. Mayor Minnet and Commissioner Dodd voted no.

b. Discussion and/or action by Town Commission to provide resolution to approve encroachment existing on public property: (Assistant Town Manager Olinzock)

1. 16 Commercial Blvd

Assistant Town Manager Olinzock wanted to bring this to the attention of the Commission. He added that a Resolution would be prepared to address this issue at the October 27, 2009 Commission meeting.

Vice Mayor McIntee made a motion to defer to November 10, 2009. Commissioner Clotley seconded the motion. The motion carried 4-1. Commissioner Silverstone voted no.

c. Commission approval of four (4) Hardship Permit Applications: (Clerk White)

1. Ocean Time LLC

2. Ocean Treasure LLC

3. Driftwood Brach Club

4. Ocean Treasure

Vice Mayor McIntee made a motion to approve. Commissioner Dodd seconded the motion. Commissioner Silverstone offered a friendly amendment to reduce the fee for hardship permits to \$100 via Resolution.

Vice Mayor McIntee made a motion to approve the four hardship applications and place on November 10, 2009 Commission meeting to reduce the amount. Vice Mayor McIntee believed the applicants could be reimbursed. Attorney Trevarthen stated she could make it retroactive in some manner.

Vice Mayor McIntee made a motion to approve the applications now and bring back for Resolution to include a retroactive clause. Commissioner Dodd seconded the motion. The motion carried 5-0.

d. Discussion and/or action to discuss the Town's Master Plan (Mayor Minnet)

Mayor Minnet combined items 16d 16f and 16g as they were all regarding a Master Plan. She believed the Commission should move forward with a new Master Plan.

Commissioner Silverstone believed the Master Plan Steering Committee should be directed to go forward. Mayor Minnet believed an engineer should get involved.

Manager Colon said during the budget the only project they put through was the El Mar Project. She asked whether the Commission wanted to go out and redo the Master Plan. She said on New Business item 16f, two (2) items were budgeted and the FDOT money was grant funds. She added that New Business item 16g would determine what would happen with New Business item 16d. She asked for clarification on citizen and Commission involvement with the Master Plan Steering Committee.

Paul Novak said the Master Plan Steering Committee had done everything that was asked of them. He believed the El Mar project should be first and foremost since the money was already there. Mr. Novak said the Master Plan Steering Committee could work on a new Master Plan for the future but they would need an engineer to help.

Commissioner Silverstone wanted to set a workshop date to include Consent items 12f and 12g.

Manager Colon stressed that the funds available were for El Mar and workshops would be needed. She said the other projects on the Master Plan were obsolete. She asked whether the Commission wanted to take the same Master Plan and reduce it or have citizen and Commission input with an outside person to assist on a new Master Plan.

Commissioner Silverstone believed there were different stages to the Master Plan. He thought the Commission should sit down and discuss it and move forward with El Mar and then work on the Master Plan.

Commissioner Clotley believed there should be research on the funds for Oriana and to determine the time limit on the beach walk. Manager Colon stated that the previous Town Attorney had given a legal opinion. Commissioner Clotley requested that the Town Attorney get in touch with Oliver Parker.

Vice Mayor McIntee said to create a new Master Plan would be expensive. Manger Colon said it would cost approximately \$100,000.

Mayor Minnet felt a plan was needed prior to beginning the El Mar project. She believed that the current Master Plan could be revised and El Mar could be brought into it.

Commissioner Dodd believed the Town accomplished a lot of projects.

Vice Mayor McIntee said there were workshops on El Mar Drive, students came to the meetings, and the Town Engineer made his presentation. Mayor Minnet said no decisions were made.

Commissioner Clotley recommended a roundtable discussion to make decisions and bring them back to a regular meeting and vote on them.

Manager Colon stated that the backup contained all the information and a decision was not made. She said decisions could not be made at a roundtable; a decision on the policy had to be set up.

Mr. Novak asked whether the Master Plan Steering Committee could provide a concrete option. Manager Colon stated that would be option number 4.

Commissioner Silverstone said the reason for putting it on the agenda was to make a decision. He believed a workshop would be a better idea than a roundtable. Commissioner Silverstone made a motion to schedule a workshop on Friday, November 13, 2009 at 5:30 p.m. Commissioner Dodd seconded the motion. The motion carried 5-0.

- e. Discussion and/or action to allow Theaters, Performing Arts Theaters, Cultural Arts Theaters, etc on Commercial Blvd (Mayor Minnet)

Attorney Trevarthen stated that this would be a land development regulation. She said a Notice of Intent would come before the Commission for reading of the Resolution and would then go to Planning and Zoning and back to the Commission. Attorney Trevarthen requested clarification as to whether theaters were being added to the B District or looking more comprehensively at the B Districts. Mayor Minnet stated she was just planning on the commercial areas.

Commissioner Dodd made a motion to approve moving forward. Commissioner Clotley seconded the motion. The motion carried 5-0.

Mayor Minnet recessed the meeting at 8:00 p.m. and reconvened at 8:10 p.m.

Mayor Minnet noted that the Master Plan Workshop scheduled for November 13, 2009 had to be moved due to Martial Arts on Fridays. It was the consensus of the Commission to move the Master Plan Workshop from November 13, 2009 to November 9, 2009 at 5:30 p.m.

f. Discussion and/or action regarding Beautification Projects (Commissioner Silverstone)

1. El Mar (Oriana)
2. FDOT - A1A - Pine to Terra Mar
3. LBTS - Pine Avenue from A1A to El Mar
4. LBTS - El Mar - Commercial to Pine

This item was scheduled for a Workshop on November 9, 2009 earlier in the evening.

g. Discussion and/or action to schedule a workshop for future Capital Improvement Project: (Commissioner Silverstone)

1. General Obligation Bond

This item was scheduled for a Workshop on November 9, 2009 earlier in the evening.

h. Discussion and/or action on a "two hats" referendum item (Commissioner Dodd)

Referendum items 7h, 7i and 7j were considered together.

Commissioner Dodd believed there should be an ethics code. He suggested the wording on the referendum be "Should any Commissioner or Mayor be allowed to vote on any issue regarding any contractor where he or she had any connections whether voluntary or paid". Commissioner Dodd made a motion to go ahead with an Ordinance as the first step towards an ethics referendum ballot question. Mayor Minnet questioned whether a workshop should be held prior to an Ordinance to get input from the residents. Commissioner Dodd wanted to know whether the Commission wanted to go ahead.

Commissioner Dodd restated the motion to go ahead with an Ordinance as a first step towards an ethics referendum ballot question. Mayor Minnet passed the gavel to second the request.

Commissioner Silverstone said the state had an Ethics Law and the issue of wearing two hats was not clear. He saw no benefit or the need for it, but if the people believed in it the people could put a petition together.

Commissioner Clotley believed in "what the people wanted" and that this referendum should not come from the dais.

Mayor Minnet seconded the motion to see how the Commission felt about this. She said two years ago she was not in favor of an Ethics Law as the State had one and currently believed the Town needed a strong ethics ordinance.

Vice Mayor McIntee said this had been on the agenda several times. He pointed out that Commissioner Dodd would have to resign from the Hillsboro Inlet as he was getting a \$4,000 benefit.

Commissioner Dodd said if there was a conflict on the Hillsboro Inlet he would abstain from voting on it. Commissioner Dodd changed his motion to go to a vote and enter it into record as failed and that the Dais did not want an ethics ordinance. Mayor Minnet withdrew her second on the first motion and offered her second for the second motion. Commissioner Clotley stated that the motion states that the dais did not want an ethics ordinance. She thought that was a broad term and questioned how they could vote on it. Attorney Trevarthen stated that if there was no clarity in the motion the Commission may want to discuss it and ultimately either vote against it or propose a clearer motion.

Vice Mayor McIntee believed the motion was inappropriate and had nothing to do with the current agenda item. He suggested Commissioner Dodd bring this back for another meeting. Vice Mayor McIntee said the motion was out of order.

Mayor Minnet made a motion to overrule the motion. Commissioner Dodd seconded the motion.

Commissioner Clotley wanted clarification on what they were supposed to be voting on. Vice Mayor McIntee explained that he overruled Commissioner Dodd's second motion that said the Commission did not want an Ethics Ordinance. Commissioner Dodd withdrew his second motion to go back to the original motion. Mayor Minnet withdrew her second.

The Commission went back to the original motion which was to create an ordinance as the first step towards an ethics referendum item. Mayor Minnet seconded the motion and offered a friendly amendment to include that any Commissioner that was affiliated with a vendor could not vote on those contracts.

Commissioner Clotley asked why the word "ethics" had to be in there rather than just state it the way it was stated.

Commissioner Clotley made a substitute motion to defer the item for a workshop. Commissioner Silverstone seconded the motion. The motion carried 3-2. Mayor Minnet and Commissioner Dodd voted no.

Mayor Minnet stated that the Commission will schedule a workshop to include items 7h, 7i, 7j and 7k for discussion regarding a two hats referendum, a height referendum, a lifeguard referendum and a Budget Oversight Committee referendum.

Vice Mayor McIntee wanted to briefly discuss the height provisions in item 16i, 1, 2, and 3. He asked Attorney Trevarthen if she had looked into the 33 foot height limitation.

Attorney Trevarthen gave a PowerPoint presentation on Section 7.1(2) and hereto attached to these minutes.

Vice Mayor McIntee questioned whether after 2006 an overlay district could not be created. Attorney Trevarthen stated that they could not create a new zoning category.

Vice Mayor McIntee questioned whether a 44 ft building could be built in the north end of Town on a vacant lot. Attorney Trevarthen stated that would fall under "all other buildings" Section 7.1(1) and the 33 foot limitation applied to anyone that did not have a current building. Vice Mayor McIntee wanted a referendum of 33 feet in the south end of Town and 44 feet in the north end of Town.

Commissioner Silverstone asked whether the overlay districts could be put back without going to referendum. Attorney Trevarthen stated they would need to determine whether it was a zoning category which was prohibited by the Charter.

Commissioner Clotey asked what a new zoning category was. Attorney Trevarthen explained it would be a new zoning category that would show up on the zoning map.

Mayor Minnet inquired of uninhabitable space on the 1st floor. Attorney Trevarthen indicated that the flood zone indicated what as habitable. She said there could be a choice as to what was habitable based on the minimum requirement.

Commissioner Dodd asked whether the overlay districts were legal. Attorney Trevarthen said as far as she knew it was as they were adopted prior to the 2006 Charter. Commissioner Dodd believed that 44 feet was previously voted on by the voters.

Attorney Trevarthen stated that 33 feet only applied to properties that as of March 20, 2006, were vacant or lacked a building.

Vice Mayor McIntee asked whether it must go to referendum. Attorney Trevarthen indicated that 44 feet conformed to the Charter and zoning could be altered within the Charter. She said that the Charter contained 2 categories: those properties in Town that already have a building since March 20, 2006 are within the 44 foot height category; and the all other buildings category at 33 feet.

Commissioner Clottey asked whether it was possible to write a referendum giving the voters a choice between 33 and 44 feet. Attorney Trevarthen said she could work on it for proper language.

Vice Mayor McIntee believed the voters should have the decision. He wanted to know whether they could incorporate 33 feet in the south end of Town and 44 feet in the north. Attorney Trevarthen stated that once the Commission gave consensus as to where they want to go she could draft language.

Mayor Minnet stated that there was consensus to have stronger definitions for the referendum and suggested they move forward and schedule a workshop.

Commissioner Silverstone made a motion to schedule a referendum workshop for Monday October 26, 2009 at 6:00 p.m. Commissioner Dodd seconded the motion. The motion carried 5-0.

- i. Discussion and/or action regarding the height limit:
 - 1. Implementation of referendum to clarify 33 foot height limit Town (Vice Mayor McIntee)
 - 2. "Should the 15 story height limit be restored in the North end of Town" (Commissioner Dodd)
 - 3. Should the Town change the zoning to allow the 44 foot height limit that was passed at three previous referenda for development within the boundaries of the Old Marina Overlay, Beach Overlay and Hospitality Districts? The setbacks, green space and density to be calculated from the 1973 original charter provisions and not the more recent overlay districts parameters (Commissioner Dodd)

This item was scheduled for a referendum workshop on October 26, 2009 along with item 7h, 7j, and 7k.

- j. Discussion and/or action concerning a referendum question for lifeguards (Commissioner Dodd)

This item was scheduled for a referendum workshop on October 26, 2009 along with item 7h, 7i, and 7k.

- k. Discussion and/ or action referendum items for the March 2010 ballot (Mayor Minnet)

This item was scheduled for a referendum workshop on October 26, 2009 along with item 7h, 7i, and 7j.

Mayor Minnet indicated earlier that she wanted a Budget Overview Committee referendum.

I. Discussion and/or reference police call (Vice Mayor McIntee)

Vice Mayor McIntee withdrew this item.

m. Discussion and/or action regarding escalating Town action to recover Town Cul de Sac (Garden Court) (Vice Mayor McIntee)

Vice Mayor McIntee believed the property had become an eyesore. He asked the Town Attorney whether the Town could get the property back. Attorney Trevarthen stated that staff could monitor the property and see that it came into compliance. She added that there was a 3 year deadline that did not come into play until next year. Attorney Trevarthen advised that the applicant was seeking a permit extension under the new Senate Bill 360 to which she was currently evaluating as to whether they met the requirements under that statute.

Attorney Grant Smith indicated that he was not aware there were code violations. He said he would bring those concerns back to his client.

Commissioner Dodd inquired as to whether there was any indication as to when more work would begin on the building. Attorney Smith said his client was suffering from a lack of interest due to the economy and was seeking an extension of the permits under the Senate Bill 360.

Attorney Trevarthen stated that Senate Bill 360 required a date as to when they would exercise the extension and asked whether Mr. Smith indicated when his client would begin building and moving forward. Mr. Smith was unclear and agreed to discuss it with his client.

Commissioner Silverstone asked what would happen should all the expiration dates come to an end and the applicant had not done anything. Attorney Trevarthen stated there were a couple of issues that would need to be analyzed and the Town could get the Cul de Sac back. Attorney Smith added that his client would still own the property.

n. Discussion and/or action regarding garbage:

1. Trash contract related issues (Commissioner Dodd)

This item was considered at the October 13, 2009 Commission meeting

o. Discussion and/or action regarding pay off or reduce Parking Fund Loan (Vice Mayor McIntee)

Vice Mayor McIntee believed there were extra funds to reduce the Parking Fund Loan. Manager Colon said they could not pay off the loan; they could only pay it down because it was proprietary funds. She added that until parking meters provided revenue they could not make additional payments. Manager Colon suggested that the Parking Fund pay the General Fund the money owed and as soon as those funds were available she would bring the numbers to the Commission.

Commissioner Dodd supported Manager Colon on this issue. He agreed that they should not be using any funds other than parking revenues to pay down the loan.

Commissioner Clotney said there were no parking meters in the lot by Wings. Manager Colon stated there may be some legal issues and Certificate of Occupancy issues that needed to be looked into.

**p. Discussion and/or action regarding the review of the Organizational Rules
(Commissioner Silverstone)**

Commissioner Silverstone stated that some of the citizens believed the meetings were not being as effective as they could be in regards to handling Town Business. He played the video for the March 25, 2009 Commission meeting where Mayor Minnet stated that she would keep comments to 3 minutes, with no insulting remarks or derogatory statements and if such was made that person would be asked to leave the podium. Commissioner Silverstone said these rules were put into place to prevent issues that had occurred. He added that public comments were out of hand and had become a political platform. Commissioner Silverstone encouraged the other Commissioners to do something about it in order to get Town Business done.

Commissioner Clotney said that Fort Lauderdale took 2 hours to finish a Commission meeting. She suggested the Commission reconsider the way they did things this past year and a half. Commissioner Clotney stated that some of the residents expressed fear was a reason why they did not come to meetings due to fighting that took place outside.

Vice Mayor McIntee stated that a fish was left on the table in Jarvis Hall. He believed that was unacceptable. Vice Mayor McIntee said nothing needed to be discussed except Town Business.

Mayor Minnet found that limiting public comments was an issue at one time. She pointed out that there were no public comments at the current meeting and it was 10:00 p.m. She suggested the Commission decide how they want to bring items on the agenda and what information they want to include in the backup. Mayor Minnet believed the Commission could state what they want in 3 minutes or less and move on.

Commissioner Silverstone made a motion to limit public comments to only items on the agenda and attacks could not be imposed. He added that if anyone wished to speak on anything else they could do so at the end of the meeting. Vice Mayor McIntee seconded the motion.

Commissioner Clotley stood behind freedom of speech. She suggested limiting the time to 2 minutes instead of 3 minutes and suggested the Mayor take control of the meetings. Commissioner Clotley suggested putting the vote off until the next meeting and see how things go with the hopes that the people heard the views of the Commission.

Vice Mayor McIntee agreed with Commissioner Clotley and withdrew his second.

Commissioner Dodd was absolutely against any limit on public comments. Mayor Minnet wanted to know what part of the "will of the people" did the Commission not understand.

Commissioner Silverstone believed in "all" of the people not the people in the room.

- q. Discussion and/or action as to changing "Hours of Business with the Town Limits Restricted", in the Town Code of Ordinances, Chapter 12 (Mayor Roseann Minnet)

Mayor Minnet wanted the Town Attorney's opinion on being selective.

Attorney Trevarthen stated that the draft ordinance in the backup addressed the hours between 2:00 a.m. and 6:00 a.m. would not apply in the months May through September town wide. She added that the Ordinance would need to go through the normal process.

Vice Mayor McIntee believed a 24 hour drug store was beneficial to the community. He made a motion to move the ordinance forward within a specific location. Commissioner Silverstone seconded the motion for discussion. Although he was in favor of a 24 hour drug store, Commissioner Silverstone was concerned that a Pandora's box would be opened and wanted to be certain that would be covered in the draft ordinance.

Attorney Trevarthen questioned whether the consensus was only for pharmacy. Commissioner Silverstone expressed his concern again and Attorney Trevarthen indicated the ordinance would be a draft and will outline specific areas. Commissioner Clotley asked whether a bar could stay open if they did not serve alcohol. Attorney Trevarthen said she would look at that. The motion carried 5-0.

- r. Finalize the Town Manager's evaluation (Commissioner Clotley)

Barbara Cole stated that the Town Manager's contract was not the same as the former Town Manager's contract.

Commissioner Clotley believed it was time to determine how the Commission was to do the Town Manager Review. Vice Mayor McIntee stated he would not support a public review of the Town Manager and would not submit an evaluation.

Mayor Minnet advised that the City of Lauderhill had their evaluations tabulated by the Town Clerk and a workshop followed to review the evaluations. Commissioner Clotey believed that was a typical evaluation. She asked whether the Commission preferred to tabulate or go with Mayor Minnet's suggestion and go to workshop without public input. Mayor Minnet was prepared to speak publically and believed it should be done. Vice Mayor McIntee suggested that other Commissioners would want to do their evaluation privately. Commissioner Clotey believed it should be done in a public forum and done informally as a group discussion.

Commissioner Dodd asked both Commissioner Silverstone and Vice Mayor McIntee whether they reviewed the Town Manager. Commissioner Silverstone said he was told they had the ability to meet with the Town Attorney to go over the contract. He found the key points in the contract to be similar. He pointed out that the Commission was here to discuss the review and not the contract.

Vice Mayor McIntee stated that he did not want the 10 week leave in the current contract.

Commissioner Dodd wanted the Town Manager to fill out the review herself and made a motion to that effect. Commissioner Silverstone made a friendly amendment to the motion to also do a review on each of the Commissioners. Commissioner Dodd agreed.

The motion was clarified. Vice Mayor McIntee was against it. The motion failed 3-2. Vice Mayor McIntee, Commissioner Clotey and Commissioner Silverstone voted no.

Commissioner Silverstone made a motion that they finalized the review of the Town Manager. Vice Mayor McIntee seconded the motion. Commissioner Clotey said part of the evaluation process was to give guidance to improve performance. She believed the Commission should get together at a roundtable and finalize it.

Commissioner Silverstone removed his motion. Vice Mayor McIntee removed his second. Commissioner Clotey wanted to discuss the evaluation at roundtable. The Commission scheduled the roundtable for Friday, October 23, 2009 at 4:00 p.m.

8. TOWN ATTORNEY REPORT

There were no reports.

9. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:32 p.m.

10. FUTURE AGENDA ITEMS

Town Commission Regular Meeting
October 20, 2009 continued from October 13, 2009

Roseann Minnet

Mayor Roseann Minnet

ATTEST:

N. White Deputy Clerk
Town Clerk, June White

10/3/09
Date